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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/573,950	03/29/2007	Thomas Nissl	047956/307840	7925
37305	7590	09/27/2007		
ALSTON & BIRD LLP BANK OF AMERICA PLAZA 101 SOUTH TRYON STREET SUITE 4000 CHARLOTTE, NC 28280-4000			EXAMINER MILLER, CHERYL L	
			ART UNIT 3738	PAPER NUMBER
			MAIL DATE 09/27/2007	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

Application No.

10/573,950

Applicant(s)

NISSL ET AL.

Examiner

Cheryl Miller

Art Unit

3738

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 30 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 3/30/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Attachment #1

## **DETAILED ACTION**

### ***Drawings***

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the thread (and thread connector) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "the end-side annular segments" in line 6. There is insufficient antecedent basis for this limitation in the claim. Claims 2-8 depend upon claim 1 and inherit all problems associated with the claim.

Claim 1 recites the limitation "the direction of the longitudinal axis" in line 6. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the edge-side transitional sections" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "the adjacent struts" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the end-side annular segments" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 4 recites the limitation "the direction of the longitudinal axis" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 5 recites the limitation "designed like a strut", which is indefinite language, similar to language, "such as", "or the like" or "for example".

Claim 6 recites the limitation "the U-shaped compensation sections" in line 1. There is insufficient antecedent basis for this limitation in the claim. It is suggested to change the above to --the U or V shaped compensation sections--.

Claim 6 recites the limitation "the area" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the ridge area" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the adjacent annular segment" in line 3. There is insufficient antecedent basis for this limitation in the claim.

Claim 7 recites the limitation "the transitional section" in line 4. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Gianturco (US 5,507,771). Gianturco discloses a stent (seen in fig.5 or 6) with at least two annular segments (11, 12) formed by struts (14) and transitional sections (15, 17), the annular segments (11, 12) connected by connectors (considered either 20 or 53), wherein each second transition section (17) has a widened head (18) that is convex and a concave throat between the head and strut (seen in fig.1A). Gianturco discloses the head to be mushroom shaped with rounded edges (see fig.1A). Gianturco discloses the head to be over an adjacent strut (is spaced further

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longitudinally than a strut, so is "over" the strut heightwise). Gianturco discloses deflection elements (may be considered other eyelets 15 or any strut 14 in general, since both of capable of accommodating a thread).

Claims 1, 2, 4, 7, and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Frantzen (US 6,299,635 B1). Frantzen discloses a stent (10'; fig.1) with at least two annular segments (20) formed by struts (30) and transitional sections (40, 50), the annular segments (20) connected by connectors (70, 80), wherein each second transition section (50) has a widened head (see fig.8-10) that is convex and a concave throat between the head and strut (details shown in fig.8, 9; see attachment 1). Frantzen discloses the head (50) to be mushroom shaped with rounded edges (see figs.8-9). Frantzen discloses deflection elements (may be considered any strut 80, 70, 30; since they are capable of accommodating a thread). Frantzen discloses connectors aligned (all 70's are axially aligned for example).

Claims 1-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Schaeffer (US 6,786,922 B2). Schaeffer discloses a stent (10; fig.6) with at least two annular segments (12) formed by struts (18, 20) and transitional sections (peaks, valleys), the annular segments (12) connected by connectors (14), wherein each second transition section (peak or valley of an 18 or 20) has a widened head (pad 45; fig.6) that is convex and a concave throat between the head and strut (shape seen in fig.6). Schaeffer discloses the head (45) to be mushroom shaped with rounded edges (seen in fig.6). Schaeffer discloses deflection elements (may be considered any strut or bend since they are capable of accommodating a thread). Schaeffer discloses connectors (14) aligned (see fig.6 or 5). Schaeffer discloses the connectors to have straight segments and a U shaped segment (40; see figs).

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***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cheryl Miller whose telephone number is (571) 272-4755. The examiner can normally be reached on Monday-Friday 7:30am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Corrine McDermott can be reached on (571) 272-4755. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Cheryl Miller



**BRUCE SNOW**  
PRIMARY EXAMINER

# Attachment #1 (markedup)

U.S. Patent

Oct. 9, 2001

Sheet 3 of 6

US 6,299,635 B1

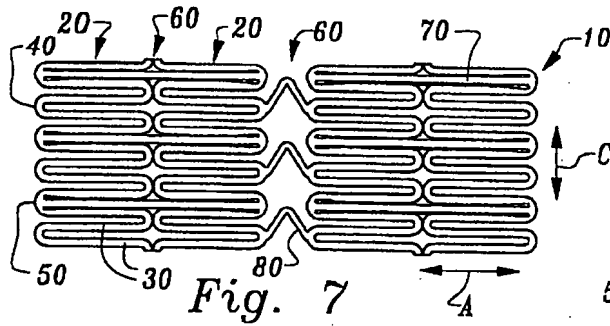


Fig. 7

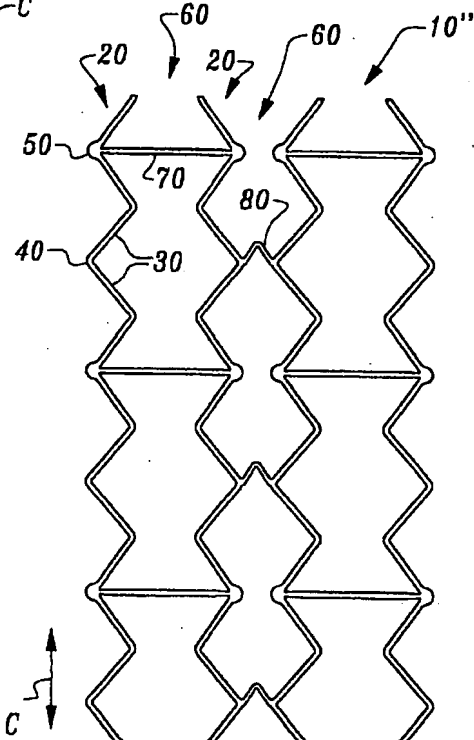


Fig. 9

\* Throat region shown concave when expanded is support state.

Concave throat  
Convex head

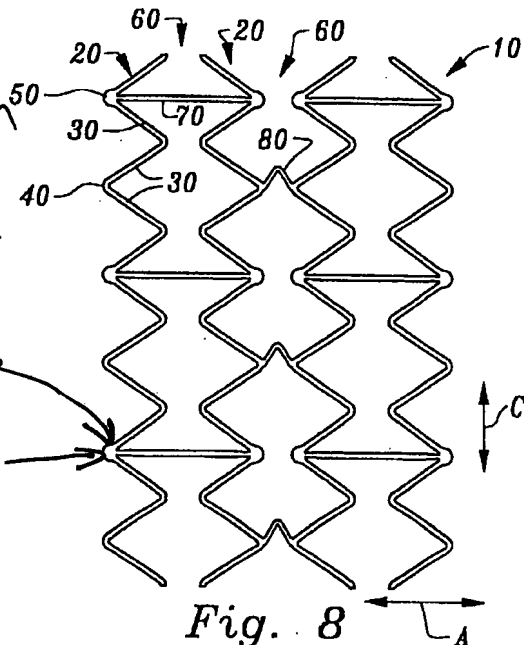


Fig. 8

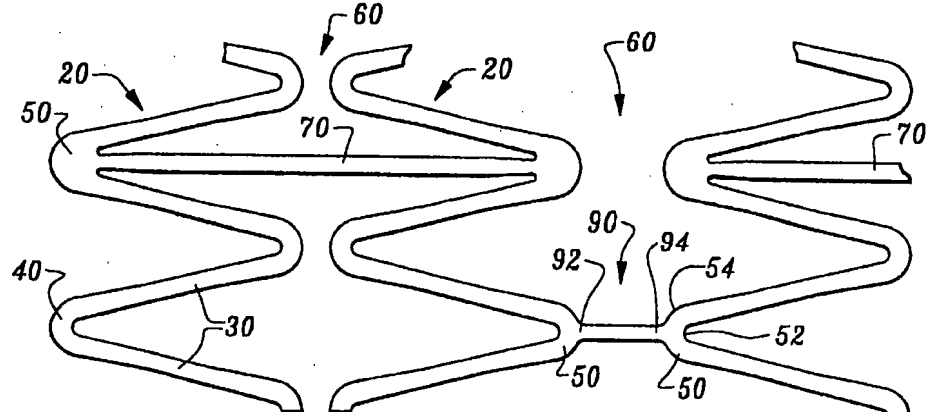


Fig. 10